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May 1, 2007

VIA E-MAIL AND FACSIMILE

Louis W. Bullock
Miller, Keffer, Bullock & Pedigo LLC
222 S. Kenosha Avenue
Tulsa, Oklahoma 74120

Re: *State of Oklahoma v. Tyson Foods, Inc., et al.*
Northern District Court of Oklahoma No. 05-CV-0329-GKF -SAJ

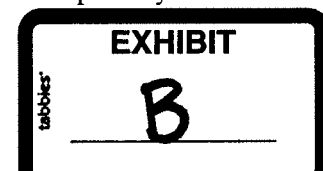
Dear Louis:

The State's Supplemental Responses to the interrogatories served by Tyson Foods, Inc., Tyson Chicken, Inc. ("TC"), Tyson Poultry, Inc. ("TP") and Cobb-Vantress, Inc. ("CV") are deficient in several respects. Following is a description of some of the more substantial deficiencies noted during my initial review of the supplemental interrogatory responses:

Verification: The supplemental responses to the Cobb-Vantress, Tyson Poultry and Tyson Chicken interrogatories were not accompanied by the verification required by Rule 33.

Non-Specific Document References. In several instances, the State withdraws its former Rule 33(d) designations but then proceeds generically to refer to an undifferentiated mass of documents which purportedly answer the interrogatories. *See* TP 4-8, CV 4 (referring to documents associated with the State's sampling scheme produced on February 1, 3 and 8); *see also* TC 5, TC 14, TF 9 (referring to 19,000 page range of "grower files" from ODAFF). In accordance with the Federal Rules and the Court's February 26, 2007 and April 4, 2007 orders, the State must identify specific documents that respond to specific interrogatories. Broad references to undifferentiated masses of documents do not satisfy the State's obligations.

Tyson Poultry No. 1. This interrogatory remains unanswered. It asked the State to identify factors or activities unrelated to the poultry industry that have an adverse effect on water quality in the IRW and to identify the location of such activities and describe the effect that those activities or factors have on water quality. Your answer does not specifically identify non-poultry factors affecting water quality nor does it provide the location or effect of such factors. Instead, the State has improperly limited its answer "to the extent discussed in publicly available reports" listed in your responses. The Federal Rules require the State to list known non-poultry



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factors affecting water quality in the IRW, to describe their effects on water quality and to identify the locations of such activities or factors.

Tyson Poultry No. 3. This interrogatory was only partially answered. The State has not provided any information regarding actions taken by the State to manage, address, control or reduce releases or impacts from cattle operations, commercial fertilizer applications or septic tanks.

Tyson Poultry Nos. 4-8. These interrogatories remain unanswered. First, these interrogatories seek information only for statutory violations by the Tyson Defendants or poultry growers under contract with the Tyson Defendants. The State's response claims that "the Defendants" have violated various statutes and details how the State intends to prove that the environment in the IRW in general has been impacted by "poultry waste." This interrogatory was specific to the Tyson Defendants and the State's response must address the evidence, if any, it has against the Tyson Defendants. Second, the interrogatory requires the identification of the dates and locations of any violations by the Tyson Defendants or poultry growers under contract with the Tyson Defendants. The State has not provided any such information. If the State has no evidence of violations of these statutes by the Tyson Defendants or poultry growers under contract with the Tyson Defendants, the Federal Rules require that the State clearly state that fact.

Tyson Chicken No. 3. This interrogatory asked for evidence of hormone contamination in the IRW originating from the operations of the Tyson Defendants and poultry growers under contract with the Tyson Defendants. The State's response refers to Aquatic Research and A&L Analytical Laboratories reports for phosphorus compounds, nitrogen compounds, zinc compounds and arsenic compounds. These references are not responsive. The State must identify the evidence relating to hormone contamination originating from operations of the Tyson Defendants and poultry growers under contract with the Tyson Defendants.

Tyson Chicken No. 4. This interrogatory asked for evidence of microbial pathogen contamination in the IRW originating from the operations of the Tyson Defendants and poultry growers under contract with the Tyson Defendants. The State's response refers to Aquatic Research and A&L Analytical Laboratories reports for phosphorus compounds, nitrogen compounds, zinc compounds and arsenic compounds. These references are not responsive. The State must identify the evidence relating to microbial pathogen contamination originating from operations of the Tyson Defendants and poultry growers under contract with the Tyson Defendants.

Tyson Chicken No. 5. This interrogatory remains unanswered. The State was required to identify specific parcels of land where the "hazardous substances were released . . . or otherwise came to rest" such that those properties constitute a "facility" under CERCLA. The State's response fails to identify any specific parcel of property that the State contends is a "facility." The references to broad ranges of ODAFF documents and the State's February 1, 3

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and 8 document productions lack the specificity required by the Federal Rules and the Court's February 26, 2007 and April 4, 2007 orders.

Tyson Foods No. 1. The Court held in its February 26, 2007 Order that the information sought in this interrogatory "is now required in the initial disclosures pursuant to the Federal Rules of Civil Procedure" and, therefore, ordered the State "to provide damage quantification to the extent it exists within Plaintiff's possession or knowledge." 2/26/07 Order, p. 11 (Dkt. No. 1063). The State's response suggests that the damage quantification is not yet complete and objects to providing information on this subject prior to the deadline for "expert damages report(s)" under the Court's scheduling order. The incompleteness of the State's damage analysis does not excuse the State from its obligation to respond to this interrogatory. The State must respond "to the extent" it has damage quantification information "within its possession or knowledge." 2/26/07 Order, p. 11 (Dkt. No. 1063).

Tyson Foods No. 7. This interrogatory remains unanswered. First, this interrogatory seeks information only for releases of "hazardous substances" by the Tyson Defendants or poultry growers under contract with the Tyson Defendants. The State's response is comprised of predictions of unspecified evidence to be presented at trial by its expert witnesses and a description of how the State intends to prove that the environment in the IRW in general has been impacted by "poultry waste." This interrogatory was specific to the Tyson Defendants, and the Federal Rules require the State to identify any evidence it has against the Tyson Defendants. Second, for any releases allegedly attributable to the Tyson Defendants, the State was required to identify the specific hazardous substance released, the location, source, volume and time period of the release, the owner/operator of the source and the transport mechanism and pathway from the source location to a water body. The State's response includes none of this information. If the State has no evidence of releases of hazardous substances by the Tyson Defendants or poultry growers under contract with the Tyson Defendants, the response must clearly state that fact.

Tyson Foods No. 9. This interrogatory remains unanswered. This interrogatory asked the State to identify by location and owner/operator poultry operations that the State alleges to be the source(s) of contamination of, or injury to, the IRW. The State's response refers generally to ODAFF files produced for all growers in Oklahoma portion of the IRW and two boxes of sampling or investigative documents included in the State's February 1, 2007 document production. However, the State has not identified any specific locations it believes to be the source of contamination nor has the State represented that each poultry grower operation identified in the ODAFF grower files or the State's February 1, 2007 production is a source of contamination or injury to the IRW.

Tyson Chicken No. 10. Among other things, this interrogatory asked the State to identify documents and evidence supporting the claim that the Tyson Defendants' activities pose a threat to human health. In response, the State refers to "Public Water Supply Reports (<http://sdwis.deq.state.ok.us>)" and "State agency and USGS water quality reports produced and

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to be produced at state agencies.” These references lack the specificity required under the Federal Rules and the Court’s February 26, 2007 and April 4, 2007 orders. The State must identify the specific documents from these sources that respond to this interrogatory.

Finally, we need to discuss arrangements for the production of documents referenced in the supplemental interrogatory responses. In particular, I need to inspect and copy the following documents:

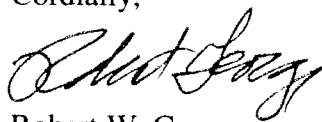
1. Water Quality Modeling Analysis in Support of TMDL Development for Tenkiller Ferry Lake and the Illinois River Watershed in Oklahoma (Draft March 2001) [relied upon in responses to TP 1, TP 2]. Please produce this document.

2. OCC Task #78 – FY 1996 419(h) Task #210 – Output #3 Estimating Watershed Level Nonpoint Source Loading for the State of Oklahoma (OSU) [relied upon in responses to TC 5]. Please produce this document.

3. Specific ODEQ or ODAFF permit files or clipped portions of permit files identified in response to Tyson Foods No. 6. Please make these files available for inspection and copying.

As always, it is my preference that discovery issues such as those outlined above be resolved cooperatively through good faith discussions without the necessity of court intervention. Please contact me immediately if the State is interested in such discussions. Otherwise, I will file a motion pursuant to Rule 37(a).

Cordially,



Robert W. George

cc: Defense Counsel (via e mail)